

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LEROY RILEY	*	Civil Action No.-05-172E
plaintiff,	*	
	*	Judge Sean J. McLaughlin
v.	*	
	*	Magistrate Judge:
CHARLES M. SIMPSON et al.	*	Susan Paradise Baxter
Defendant.	*	
	*	

MOTION TO ENTER DECLARATION  
FOR ENTRY OF DEFAULT

Leroy Riley Declares:

I am plaintiff herein, The complaint herein was filled on the 1st day of September 2005.

1. The court files and record herein will show that a copy of the complaint and waiver of service where served upon the defendant on the same day, September 1st, 2005, by United States mail, see (Proff of service). Central office Dept of correction, 2520 Lesburn Road, P.O. Box 598 Camp Hill, Pa 17006-0598.

2. On April 13, 2006 the defendant by there Attorney submitted to this court Motion For Extension of Time, Defendant Attorneys Adver that plaintiff did not provide Waiver of Service in accordance with Pa R.C.P (4).

3. The defendant attorneys also adwers, 'techniclly service was was formally deficent becouse under Pa. R.C.P. 422; as applicable under F.R.C.P. 4., there is no Return of service on the Attorney General.

4. The defendant's Attorney requested 60 to 90 days extension of time to respond to the complaint.

5. This plaintiff ask that this Court deny The Motion For Extension of Time and enter a Declaration for Entry Of Default on the defendants.

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CLERK  
U.S. DISTRICT COURT

6. After I have conducted some reasonable investigation, I have concluded that the defendant's Attorneys or with out knowledge or information sufficient to form a belief as to the truth or falsity of the averments regarding whether Waiver Of Service was sent to all of the defendant's " in fact it was sent", Also regarding Pa. R.C.P. 422, I believe this Rule only applys to only the suite brought in state courts, (no waiver of service is required).

7. In regaurds to F.R.C.P. (4), I also believe from my investigation" dose not require a waiver of service to be sent to the Attorney General, only to the defendants and or agents.

8. Never-the-less the plaintiff issued a Waiver of Service to all of the defendants on the same date the complaint was filled Semtember 1, 2005.

9. the Marshal made service by Summons on verious dates between April 24th through the 27th, resulting in the docket reflecting answer being due on ether April 13th, 2006 or April 17, 2006 respectively for the indivual defendants.

10. More than (20) twenty days have elapsed sence the date on which the defendants herein were served with summons and copy of plaintiff complaint excluding the date thereof.

11. the defendants, herein have failed to answer or otherwise defend as to plaintiff complaint or serve a copy of any answer of any defence which might have had upon affiant or any other plaintiff herein.

12. Defendant's are not in the militare service and are not infants or incompetent

I declare under penalty of perjury that the forgoing is true and correct.

**WHEREFORE,** petitioner request that this Honorable Court enter declaration for entry of default.

DATE:

\_\_\_\_\_  
Pro se petitioner

SCI Forest  
Marienevill Pa, 16239

NO mention of Secretary or NO waiver to  
Attorney General

**CHECKLIST FOR FILING A PRO SE PRISONER COMPLAINT**

**STEP ONE: Write Your Complaint Legibly on the Form Provided.**

- ☒ Name and Address of the Plaintiff and each Defendant.
- ☒ Jurisdiction (why it is in Federal Court).
- ☒ Allegations (claims against the Defendant).
- ☒ Relief (what you are seeking from the Court).
- ☒ Caption the case at the top with the names of all parties.
- ☒ Number each paragraph (except relief).
- ☒ Make and submit 3 copies for the Court (1 original and 2 copies).
- ☒ Make and submit a copy for each Defendant listed on the Complaint.
- ☒ Make a copy to keep for your records.

**STEP TWO: File Your Complaint.**

- ☒ Pay \$150.00 filing fee OR
- ☐ Complete the following:
  - ☒ Application For Leave To Proceed  
In Forma Pauperis (IFP)
    - ☐ Submit a copy of the Application for each Complaint, and 1 original and 2 copies for the Court.
  - ☐ Financial Affidavit
    - ☐ Submit 1 original and 2 copies of the Financial Affidavit.
  - ☐ Authorization Form.
    - ☐ Submit 1 original and 2 copies of the Authorization Form.

**STEP THREE: Service of Process.**

- ☒ Complete and Submit a Summons for each Defendant if not proceeding IFP or if proceeding IFP but the United States or its agencies or a State or Local government is a Defendant.
- ☒ Complete and Submit a "Process Receipt and Return" form for each Defendant. (Do not detach any of the copies – two of them will be returned to you at a later date.)
- ☒ Complete and Submit a "Notice of Lawsuit and Request for Waiver of Service of Summons" form for each defendant.
- ☐ Submit a blank "Waiver of Service of Process" form for each defendant.

CERTIFICATE OF SERVICE

I hereby certify I served the foregoing on the parties of record by sending a true and correct copy U.S. First Class Mail, addressed as follows:

United States District Court  
Western District of Pa  
P.O. Box 1820  
P.O. Box 1820  
Pittsburgh, Pa 15230

Office of Attorney General  
6th Floor, Manor Complex  
564 Forbes Av  
Pittsburgh, PA 15219

Date: 4/19/06

By: 

(Print name) LEROY RILEY

(Inmate No.) F98672

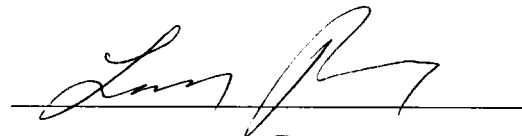
State Correctional Institution at Forest  
P.O. Box 945  
Marienville, PA 16239

**VERIFICATION**

I verify that the foregoing is true and correct, to the best of my knowledge, information and belief. I understand that false statements herein, are made subject to the penalties of **18 Pa. C.S.A. §4904** (relating to unsworn falsification to authorities)

Respectfully submitted,

Date: 4/19/06



(Print name) Leroy Riley

(Inmate No.) F08672

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